

Introduced by

**NORTH DAKOTA CENTURY CODE CHAPTER 15.1-35 -
TEXTBOOK PURCHASES**

Chapter 15.1-35 of the North Dakota Century Code is created and enacted as follows:

15.1-35-01. Textbooks - Filing of statement - Bond. Before a person offers a textbook for use in the schools of this state, the person shall:

1. File a sworn statement with the superintendent of public instruction setting forth:

- a. The textbook's published list price;
- b. The lowest wholesale price at which the textbook is sold to any school board or similar entity anywhere in the United States; and
- c. The lowest price at which the textbook may be exchanged.

2. File with the superintendent of public instruction a bond in an amount no less than two thousand dollars nor more than ten thousand dollars, as determined by the superintendent. The bond must be conditioned as follows:

- a. That any textbook listed in the sworn statement filed with the superintendent must be supplied by the publisher to a school district in this state at the price and terms contained in the statement.
- b. That the price and terms set forth in the sworn statement must be automatically reduced in this state if the publisher makes a reduction in any other state.
- c. That the person preparing an abridged or special edition of any textbook listed in the sworn statement shall make the edition available to a school district at the same price that the edition is sold elsewhere.
- d. That the person may not contract to control prices or restrict competition in the sale of textbooks.

NOTE: Present Section 15-43-01.

15.1-35-02. Approval of bond - License by superintendent of public instruction.

The attorney general shall approve the bond required by section 15.1-35-01. After the bond is approved, the superintendent of public instruction may license the person to sell textbooks to school districts in this state at the price set forth in the sworn statement filed with the superintendent.

NOTE: Present Section 15-43-02.

15.1-35-03. Bond - Breach of conditions - Forfeiture. If any person supplies textbooks to a school district at a price higher than that set forth in the sworn statement filed with the superintendent of public instruction or higher than that charged elsewhere in the United States, the county superintendent of schools, upon receiving a written complaint filed by a school board, shall inform the superintendent of public instruction. The superintendent of public instruction shall notify the person of the complaint and if the person disregards the notification or fails to comply with the terms of the sworn statement on file with the superintendent, the bond must be forfeited and the attorney general, at the written request of the superintendent of public instruction, shall proceed to collect the full amount.

NOTE: Present Section 15-43-03. Present Section 15-43-03 provides that a school board, upon determining that the charge for textbooks is higher than the price listed in the sworn statement of the seller, shall inform the county superintendent, who in turn shall inform the Superintendent of Public Instruction. The committee may want to review whether the middle step can be avoided by having a school board bring its information directly to the Superintendent of Public Instruction.

15.1-35-04. Inducements to purchase textbooks - Prohibition - Sample copies.

1. A person may not obtain, attempt to obtain, or influence the adoption, selection, or purchase of any textbook by giving, promising to give, or offering any inducement to a school district employee or board member. For purposes of this section, inducement includes money, anything of value, or a promise of employment.
2. This section does not prohibit a person from giving, or any school district employee or board member from receiving, a reasonable number of sample textbooks for examination. Sample textbooks are the property of the school district and after concluding an examination of the textbooks, the school district employee or board member who received the sample textbooks shall deliver the samples to the business manager.

NOTE: Present Section 15-43-05. Present Section 15-43-05 provides that "[n]o person ... shall obtain or attempt to obtain within this state the adoption, selection, or purchase

of, or contract for, any school textbook by making any reward or promise of a reward to any teacher or school officer. No person ... shall offer or give emoluments, money, or any valuable thing, promise or employment, or any other inducement, to any teacher or school officer in any school district for any vote or promise of vote, or for his influence, for the selection of any schoolbook for use in this state." The rewrite eliminates the repetitive concepts. The rewrite also replaces the references to teachers and school officers with school district employee or board member. It is not clear who is included in the phrase "school officer."

- 1 **15.1-35-05. Penalty.** A person violating any provision of this chapter is guilty of an
- 2 infraction.

NOTE: Present Section 15-43-12.